

EXHIBIT A

1 THE HONORABLE RICHARD A JONES
2

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16 ATTORNEYS FOR PLAINTIFF
17

18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE WESTERN DISTRICT OF WASHINGTON
20

21 EQUAL EMPLOYMENT OPPORTUNITY
22 COMMISSION
23

24 v.
25

26 TAYLOR SHELLFISH COMPANY, INC.,
27 Defendant.
28

29 CIVIL ACTION NO. 16-01517 RAJ
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31 DEFENDANT'S FIRST DISCOVERY
32 REQUESTS TO PLAINTIFF EEOC AND
33 PLAINTIFF EEOC RESPONSES THERETO
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35 Plaintiff Equal Employment Opportunity Commission ("EEOC") provides the following
36 response to "Defendant's First Discovery Requests to Plaintiff EEOC" as follows, which also
37 supplement the EEOC's initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1):
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43 EEOC'S RESP TO 1ST DSC REQ- Page 1 of 27
44

45 EQUAL EMPLOYMENT
46 OPPORTUNITY COMMISSION
47 Seattle Field Office
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GENERAL OBJECTIONS

1. Plaintiff EEOC objects to Defendant First Discovery Requests to EEOC to the extent that they seek information that is privileged from disclosure by the Attorney-Client Privilege and/or by the Attorney Work Product Doctrine.

2. Plaintiff EEOC further objects to this discovery to the extent that it seeks information that is protected from disclosure by the Governmental Deliberative Process privilege.

3. Plaintiff EEOC further objects to this discovery to the extent that it seeks information that is protected from disclosure by the Therapist-Patient privilege and other privacy protections.

4. Plaintiff EEOC also objects to this discovery to the extent that it seeks information gathered during the conciliation process which may not be disclosed pursuant to Section 706(b) of Title VII, 42 U.S.C § 2000e-5(b).

5. Plaintiff EEOC also objects to this discovery on the ground that it is repetitive and duplicative to the extent that it seeks information that has already been disclosed through Plaintiff EEOC's initial disclosures which were provided to Defendant pursuant to Fed. R. Civ. P. 26(a)(1).

6. Plaintiff EEOC provides these responses based upon its present knowledge, information and belief, and after a reasonable inquiry. However, discovery is ongoing and EEOC hereby acknowledges its duty and reserves its right to amend, correct or supplement these responses.

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1 could require the EEOC to reveal information that was created during conciliation and/or is
2 deliberative. Notwithstanding these objections, EEOC directs Defendant to EEOC's and
3 Defendant's initial disclosures.

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5 **INTERROGATORY NO. 18:**

6 Identify all medical providers or counselors who have provided evaluation, treatment or
7 care to Claimant since January 1, 2007. For each provider identified state the approximate dates
8 of treatment, the nature of the condition necessitating treatment, and specifically state whether
9 the treatment was related to any injuries or damages claimed in this lawsuit.

10 **RESPONSE:**

11 EEOC objects that this discovery request is overbroad and unduly burdensome, and on
12 the basis of relevance because it seeks information about Mr. Daniels' medical history for the
13 past ten years and because there is no limitation on the scope of this request. For example, this
14 discovery request seeks information and documents about any physical condition no matter how
15 trivial or transitory. EEOC also objects to this invasive discovery request about any "medical
16 doctor, psychologist, psychiatrist, professional counselor, therapist, and/or other health care
17 provider who has provided treatment, counseling, therapy, assessment, rehabilitation or other
18 health-related services" to Mr. Daniels for the past ten years to the extent it seeks information
19 about any physical or mental impairment that Mr. Daniels might have. In addition to the
20 foregoing, EEOC further objects to this interrogatory to the extent that it seeks information about
21 any "psychologist, psychiatrist, professional counselor, therapist, and/or other health care
22 provider who has provided treatment, counseling, therapy" to Mr. Daniels for the past ten years
23 because such information about the "condition" and "nature of the Health Services provided to
24 him" is protected from disclosure by the Therapist-Patient privilege. *Jaffee v. Redmond*, 518
25 U.S. 1 (1996).

1 EEOC further objects on the grounds that the request is unreasonably broad and unduly
 2 burdensome because the EEOC brings a “garden variety” emotional distress claim for Mr. Holt.
 3 Again, mental health records, to the extent they exist, are protected by the Therapist-Patient
 4 privilege. The Supreme Court’s ruling in *Jaffee v. Redmond*, 518 U.S. 1 (1996), and its progeny,
 5 have established that a patient’s statements to his psychologist or mental health service provider
 6 are privileged, and unless a plaintiff’s mental state is placed into issue, this privilege is not
 7 waived. Courts in the Ninth Circuit have held that merely alleging “garden variety” emotional
 8 distress, without more, does not place one’s mental state at issue. See *Fritsch v. City of Chula*
 9 *Vista*, 1987 F.R.D. 614 (S.D. Cal. 1999). See also *Cesar v. Mountanos*, 542 F.2d 1064, 1067
 10 (9th Cir. 1976)(emphasizing the importance of protecting confidentiality between
 11 psychotherapist and patients).

12 EEOC also objects to this interrogatory on the grounds that the request is unreasonably
 13 broad and unduly burdensome because many trial courts in the Ninth Circuit have recognized the
 14 strong privacy and confidentiality interests an individual has in his/her medical history when the
 15 individual has not put his/her entire medical history at issue in a discrimination case, i.e., by not
 16 claiming a specific bodily injury. See *Sims v. Lakeside Sch.*, 2007 WL 5417731 (W.D. Wa. Mar.
 17 15, 2007); see also *EEOC v. Serramonte*, 237 F.R.D. 220 (N.D. Cal. Mar. 22, 2006). Finally, the
 18 EEOC notes that discovery is ongoing. The EEOC may supplement this answer as appropriate.

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20 **REQUEST FOR PRODUCTION NO.12:**

21 Please produce all medical records, including mental health and psychotherapy records,
 22 for every heath care provider (including social workers, psychiatrists, psychologists, therapists,
 23 and other medical professionals) who has treated the Claimant for injuries or harm allegedly
 24 resulting from incidents referred to in the Complaint.

1 RESPONSE:

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 3 the basis of relevance because it seeks information about Mr. Daniels' medical history for the
 4 past ten years and because there is no limitation on the scope of this request. For example, this
 5 discovery request seeks information and documents about any physical condition no matter how
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7 claiming a specific bodily injury. See *Sims v. Lakeside Sch.*, 2007 WL 5417731 (W.D. Wa. Mar.
8 15, 2007); see also *EEOC v. Serramonte*, 237 F.R.D. 220 (N.D. Cal. Mar. 22, 2006). Finally, the
9 EEOC notes that discovery is ongoing. The EEOC may supplement this answer as appropriate.

10

11 **INTERROGATORY NO. 19:**

12 Does Claimant contend he has lost any income, wages, retirement or other benefits or
13 other benefits, past, present or future, based on any incidents referred to in your Complaint,? If
14 so, please state the amount of any such lost income, wages, retirement, or other benefit; and the
15 dates or time period applicable to such income, wages, retirement or other benefit or emolument.

16 **RESPONSE:**

17 Mr. Daniels was out of work for approximately three months. Plaintiff EEOC claims lost
18 wages during this period. After leaving Taylor, Mr. Daniels began his employment with the
19 Naval Hospital in Oak Harbor on May 19, 2014. When Mr. Daniels left Taylor he was making
20 \$15.50 per hour and was working 40 hours per week. EEOC estimates that Mr. Daniels lost
21 \$7,985.85 in lost wages. In addition, Mr. Daniels lost his 401K with Taylor and had to cash this
22 out. As a result of his constructive discharge from Taylor his credit score went down. Finally,
23 the EEOC notes that discovery is ongoing. The EEOC may supplement this answer as
24 appropriate.

DATED this 4th day of May, 2017.

ROBERTA L. STEELE
Regional Attorney

P. DAVID LOPEZ
General Counsel

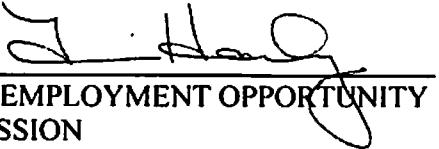
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EEOC'S RESP TO 1ST DSC REQ- Page 26 of 27

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CERTIFICATE OF SERVICE

I am, and was at the time the herein service took place, a citizen of the United States, over the age of eighteen (18) years and not a party to the above-entitled cause.

I am employed in the Legal Unit of the San Francisco District Office of the United States Equal Employment Opportunity Commission.

My business address is U.S. Equal Employment Opportunity Commission, San Francisco District Office, Phillip Burton Federal Building, 450 Golden Gate Ave., 5th Floor West, P.O. Box 36025, San Francisco, CA 94102.

On the date that this declaration was executed, as shown below, I personally served the following document(s):

**DEFENDANT'S FIRST DISCOVERY REQUESTS TO PLAINTIFF EEOC AND
PLAINTIFF EEOC RESPONSES THERETO**

by via email, to the following person(s):

**Stephanie Bloomfield, WSBA No. 24251
Gordon Thomas Honeywell LLP
1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
sbloomfield@gth-law.com**

Attorney for Defendant Taylor Shellfish Co., Inc.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
May 4, 2017, at Phoenix, Arizona.

McCastrey

Colleen D. McCartney